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Policy Brief: Trump Administration Day One Executive Orders
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Introduction

On January 20, 2025, President Trump issued several executive orders that impose sweeping reforms to the immigration system. While these orders purport to put “America first,” they are unlikely to make the nation safer or advance its interests. In fact, these initial executive actions will not only undermine the orderly and efficient operation of the immigration system that is essential to the nation’s prosperity but also destabilize American families and communities.

As the national bar association of immigration lawyers, AILA supports reforms to the immigration system to ensure the fair, orderly and efficient processing of immigrants. Polling shows that the American people want real solutions that ensure the immigration system meets the needs of American families, businesses and the economy. For example, a recent *Wall Street Journal* poll concluded that the public does not support mass deportations and instead supports orderly and measured approaches that protect longtime undocumented residents from removal without causing fear and disruption in local communities. AILA is committed to advancing solutions that will improve the immigration system and advance America’s national interest.

This document summarizes and analyzes each of the executive orders impacting immigration.

Executive Order Initial Rescissions of Harmful Executive Orders and Action..... 2

Executive Order Protecting the Meaning and Value of American Citizenship 2

Executive Order Protecting the American People Against Invasion 3

Executive Order Securing Our Borders 4

Executive Order Declaring a National Emergency at the Southern Border..... 4

Executive Order Protecting the United States from Foreign Terrorists and Other National Security and Public Safety Threats 5

Executive Order Designating Cartels and Other Organizations as Foreign Terrorist Organizations and Specially Designated Global Terrorists 5

Executive Order Guaranteeing the States Protections Against Invasion 5

Executive Order Clarifying the Military’s Role in Protecting the Territorial Integrity of the United States 6

Executive Order Realigning the United States Refugee Admissions Program..... 6

Executive Order Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government..... 6

Executive Order America First Trade Policy..... 7

Executive Order America First Policy Directive to the Secretary of State 8

Acknowledgements..... 8

Executive Order Initial Rescissions of Harmful Executive Orders and Action

The new administration rescinded several Biden-era orders including those on enforcement priorities, restoring the legal immigration system, reunification of families separated under Trump I, refugee resettlement, and managing migration with other country governments. The immigration implications of these rescissions are wide-ranging, and include setting the stage for the expansion of expedited removal in the interior and eliminating any right to seek bond, reinstating the public charge process under Trump I, as well as eliminating efforts to improve government efficiency. AILA released a members only [practice alert](#) with more detail on this executive order. These are the immigration-related executive orders rescinded:

- Executive Order 13993 of January 20, 2021 (Revision of Civil Immigration Enforcement Policies and Priorities).
- Executive Order 14010 of February 2, 2021 (Creating a Comprehensive Regional Framework To Address the Causes of Migration, To Manage Migration Throughout North and Central America, and To Provide Safe and Orderly Processing of Asylum Seekers at the United States Border).
- Executive Order 14011 of February 2, 2021 (Establishment of Interagency Task Force on the Reunification of Families).
- Executive Order 14012 of February 2, 2021 (Restoring Faith in Our Legal Immigration Systems and Strengthening Integration and Inclusion Efforts for New Americans).
- Executive Order 14013 of February 4, 2021 (Rebuilding and Enhancing Programs To Resettle Refugees and Planning for the Impact of Climate Change on Migration).

Executive Order Protecting the Meaning and Value of American Citizenship

This executive order attempts to strip fundamental rights provided by the U.S. Constitution from individuals born in the United States. Specifically, the constitutional right that individuals born on U.S. soil are, with limited exceptions, U.S. citizens. Pursuant to the order, citizenship will only be conferred to children born in the United States whose mother or father is a lawful permanent resident or U.S. citizen. The executive order takes this fundamental right away from the children of undocumented parents as well as the children of parents who are in lawful nonimmigrant status, such as H-1B and L-1. This will adversely impact the ability of U.S. companies from being able to recruit the best and brightest talent from around the world to contribute to the nation's economic growth and innovation.

Analysis:

- The policy will take effect 30 days after the issuance of the executive order and will apply to children born on or after February 20, 2025.
- The definition of mother and father is limited to immediate female/male biological progenitors. This may impact the children of same sex couples and children born through Artificial Reproductive Technologies (ART).
- Multiple lawsuits seeking to enjoin this EO have been filed.¹
- The Executive Order attempts to leverage language in the 14th Amendment (“and subject to the jurisdiction thereof”) to construct a novel, and widely discredited, argument that persons born in the U.S. to a noncitizen/non-LPR mother are not subject to U.S. jurisdiction and therefore are not U.S. citizens.

¹ See [New Hampshire Indonesian Community Support v. Donald J. Trump](#), No. 1:25-cv-38 (D. N.H. Jan. 20, 2025); see also [New Jersey v. Trump](#), No. 1:25-cv-10139 (D. MA, Jan. 21, 2025).

- A January 2025, [Wall Street Journal](#) poll concluded that 64% to 31% of voters oppose ending birthright citizenship.

Executive Order Protecting the American People Against Invasion

This executive order calls for the maximal enforcement of immigration law, rescinds the Biden administration's enforcement policies and directs DHS to set new enforcement priorities. The orders specify these priorities should include illegal entry, unlawful presence and people with final orders of removal. The use of expedited removal under INA 235 will be expanded to the extent allowed by statute. The order calls for the expansion of detention facility capacity and for DHS to detain everyone pending resolution of their cases. It creates in each state a federal Homeland Security Task Force comprised of federal and local law enforcement who shall coordinate enforcement efforts. The order calls for the registration of undocumented aliens and the prioritization of enforcement against those who do not comply. The order calls for fines and penalties to be levied against people who are undocumented or who facilitate their presence in the United States. The new administration also intends to impose sanctions against recalcitrant countries who do not accept or facilitate the return of their nationals, which could include the denial of visas to nationals of the country. The order calls for the expansion of agreements (under INA 287(g)) with local governments to effectively deputize them to assist with immigration enforcement. It reestablishes the office of victims of immigrant crimes (VOICE) created under Trump I to respond to reports of crimes committed by removable individuals.

The order calls for limiting grants of humanitarian parole, Temporary Protected Status, employment authorization, and public benefits to existing statutory requirements (based on the assumption that the Biden administration did not comply with statute).

The order calls for DHS and the Attorney General to deny "sanctuary jurisdictions" access to federal funds to the maximum extent allowed under law. It also will take steps to ensure information sharing with state and local governments to enforce immigration law. The order requires a review of all federal funding agreements with non-governmental organizations to ensure none are facilitating the violation of immigration law.

The order calls for significant increases in the hiring of CBP and ICE officers and agents. This appears to override the hiring freeze on other federal personnel.

Analysis:

- The new requirement that undocumented aliens register their presence is similar to the post-9/11 National Security Entry Exit Registration System program that also required registration of certain people present in the United States which targeted people from mostly Muslim and Arab-majority nations. That program was ended in 2016 after it was found to be ineffective and resulted in abuses due to racial, ethnic and religious profiling.
- The administration is further signalling its intent to further restrict grants of humanitarian parole, TPS, granting of work permits and access to public benefits.
- Under Trump I, VOICE stigmatized immigrants by creating a false narrative that undocumented immigrants are more likely to commit crimes, despite unrefuted statistics showing that they have lower crime rates than native-born citizens.
- The information sharing provisions of the order raise concerns about privacy and the balance of federal and local roles in immigration enforcement. Under Trump I such policies enabled the targeting of undocumented family members in the U.S. whose children seek to enter the U.S. as unaccompanied minors.

- The order may violate the 14th Amendment’s prohibition on the federal government commandeering state and local resources.
- The expanded deputization of local law enforcement to engage in civil immigration enforcement led to constitutional violations by local authorities, such as racial profiling. This order creates an unfunded mandate for local authorities to provide staffing and resources for federal immigration enforcement.
- Federally funded programs that provide states and localities with support for migrants and for alternatives to detention could be targeted as part of the reviews anticipated in this order.

Executive Order Securing Our Borders

While this order announces policies it claims will achieve complete operational control of the border, it dismantles important programs that improve efficiency at ports of entry or help reduce pressure at the U.S. southern border. Many of the announced policies were tried in the President’s first term, including the construction of walls and barriers and the maximal use of resources to prevent unauthorized entries, detain migrants, execute removals, and prosecute those who violate immigration law. The order announces the restart of the Migrant Protection Protocols (MPP, also known as Remain in Mexico) which first went into effect in January 2019 and required people to wait in Mexico for their immigration court hearings. In addition, the order ends the CBP One app, terminates the humanitarian parole programs created under the Biden administration for Cubans, Haitians, Nicaraguans and Venezuelans (CHNV), and ends the practice of releasing people apprehended at the border into the U.S. pending court hearings (so-called “catch-and-release”).

Analysis:

- The legal pathways President Biden created for nationals of CHNV countries improved the orderly arrival of thousands of people in need of protection and alleviated the volume coming to the U.S. border. Humanitarian parole programs, including those for Ukrainians and Afghans, have proven effective as solutions to provide legal processes for people to come to the United States. Ending CHNV, along with the CBP One app, will compel more people to enter between ports of entry for lack of an orderly alternative.
- By announcing the end to catch-and-release, the administration may require detention for anyone apprehended without regard to whether they need to be detained. Detention facilities will quickly reach maximum capacity, as it did under the Biden administration. The new administration will need to seek funding and other ways to expand detention space.
- The ability to reinstate MPP will depend on the administration’s ability to secure an agreement from the Government of Mexico. When MPP was first initiated, it resulted in a humanitarian crisis at the southern border with large numbers of people waiting in squalid, unsafe camps and increased the presence of cartels preying upon migrants.

Executive Order Declaring a National Emergency at the Southern Border

With this order, the Trump administration is attempting to deploy the military—including personnel and budgetary resources—at the border and to execute mass deportations. Drawing upon the Constitution and the National Emergencies Act, the President declared a national emergency at the U.S. southern border to justify the use of Department of Defense resources, including the Armed Forces and National Guard, to enforce immigration law. DOD is ordered to support DHS enforcement efforts and devote resources to border barrier construction, apprehensions, detention capacity, and other operations. The order seeks to authorize drone and other surveillance by waiving aviation and communication regulations.

Analysis:

- The chief concern is whether it is appropriate and lawful to mobilize the U.S. military to engage in civil immigration enforcement. Implementation of the order could conflict with INA Section 235 which requires immigration officers to conduct expedited removal.
- Military personnel are not trained to conduct immigration enforcement or humanitarian operations. Historically the inadequate training and screening of Border Patrol has resulted in abuses of migrants and corruption. Immigration attorneys may be able to challenge errors in Notices to Appear, I-213s and other violations of process.

Executive Order Protecting the United States from Foreign Terrorists and Other National Security and Public Safety Threats

As in 2017, the Trump administration is setting the stage to justify travel bans and to avoid the legal challenges that plagued his initial versions of the Muslim ban which targeted nationals from mostly Muslim-majority countries. Within 60 days, the administration will identify nations with deficient vetting procedures that will be subject to a complete or partial travel ban justified under INA 212(f).

Enhanced vetting will also be re-established at the baseline level that was in place at the end of the first Trump administration (January 19, 2021) and all resources available will be used to maximize the scrutiny of visa applicants and those who are already in the United States in lawful status. In addition, the Department of State and other agencies will evaluate all visa programs for national security and otherwise recommend actions to protect Americans. More resources will be devoted to denaturalization operations and assimilation of immigrants. More stringent verification and screening of refugees and stateless persons.

Analysis:

- The first Trump administration imposed extreme vetting procedures that were frequently unnecessary and resulted in severe delays to visa processing. The language of the new executive order indicates even more stringent vetting as it will look back four years and reevaluate adjudications.
- The stricter scrutiny on new applicants and those who have been in nonimmigrant status in the United States for many years will result in uncertainty and delays for their employers and families.

Executive Order Designating Cartels and Other Organizations as Foreign Terrorist Organizations and Specially Designated Global Terrorists

This order establishes a process to designate within 14 days cartels as FTOs or SDGTs and calls for their complete elimination in the U.S. The order announces a plan to use the Alien Enemies Act to expedite the removal of people designated as terrorists.

Analysis:

- The order relies upon the determination that there is a “qualifying invasion” to justify the use of the Alien Enemies Act.

Executive Order Guaranteeing the States Protections Against Invasion

While border arrival numbers in recent months have posted the lowest levels in years, the Trump administration has declared that an invasion of migrants is ongoing at the southern border and uses it as a justification to suspend all border entries, including asylum seekers. This executive order conflicts with the INA’s guaranteed access to asylum and is subject to legal challenge. The order invokes Article IV,

Section 4 of the Constitution which requires the United States to protect states from foreign invasion. It relies on the president's authority to restrict or block entry into the country under INA 212(f). The order also relies upon INA 212(f) to block entry for anyone who might pose a threat to public health (if they fail to provide medical or criminal background information).

Analysis:

- The order conflicts with the INA's guarantee of access to asylum and is subject to legal challenge on this ground.
- The order is premised on the farfetched view that the unauthorized entry of migrants constitutes an "invasion."

[Executive Order Clarifying the Military's Role in Protecting the Territorial Integrity of the United States](#)

Within 10 days, DOD is ordered to deliver a revised Unified Command Plan for the United States Northern Command to seal the borders and maintain U.S. sovereignty and security including repelling "invasion" in the form of "unlawful mass migration" and narcotics or human trafficking and other criminal activities. The order requires "commander's estimate" within 30 days and continuous assessment of operations.

[Executive Order Realigning the United States Refugee Admissions Program](#)

The president has suspended the U.S. refugee program indefinitely. This is based on a determination that the program is detrimental to U.S. interests under INA 212(f). Notwithstanding the suspension, DOS and DHS may admit refugees on a case-by-case basis. States and localities will be given a role in determining the placement of refugees in their jurisdictions. Within 90 days, DOS and DHS will offer recommendations on whether the program will resume. The executive order on Protecting the United States from Foreign Terrorists also notes that more stringent vetting will be applied to refugees.

Analysis:

- In January 2017, President Trump also suspended the refugee program and subsequently lowered the annual refugee resettlement targets. By the end of fiscal year 2020, the total number of refugees resettled had dropped to less than 12,000.
- Refugees typically wait years to be interviewed and are subject to the most rigorous security and identity screening procedures of any foreign national entering the United States. Additional vetting measures are unlikely to result in improved national security benefits.
- If the refugee program resumes, states and localities may be able to resist or block the placement of refugees in their jurisdictions. Typically refugees prefer resettlement in areas where they have family or community connections. It will be important to track whether the program gives states the authority to approve resettlement decisions and whether refugees who later seek to travel to a restricted jurisdiction will be barred.

[Executive Order Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government](#)

Changes made to how the federal government recognizes gender has a wide ranging impact on immigration, from paperwork to detention centers, significantly increasing the hardship and risks for transgender and nonbinary noncitizens. This order directs government agencies to recognize only two sexes, male and female, in all of its policies and procedures. Agencies are required to submit a report to

the President on their progress within 120 days. As it relates to immigration, the following actions will be impacted:

Analysis:

- Government-issued identity documents, including passports, visas and Global Entry cards will only reflect male or female. It is unclear whether the government will require reissuance of existing documentation.
- Immigration forms, regulations and policy documents may need to be updated.
- Adjudication of asylum applications for transgender applicants will be limited based on the revised definitions.
- Detention Centers will only separate detainees by male or female.
- Although the Secretary of Health and Human Services is required to provide definitions of relevant terms within 30 days, the definitions will likely leave gaps that will result in differing and contradictory definitions amongst agencies.
- This change will result in heightened risks and hardship for people who do not conform to the strict male/female gender categories of the executive order. People who identify as transgender or nonbinary will likely experience significant mistreatment, abuse and violence in immigration detention due to their gender status.

Executive Order America First Trade Policy

This order may result in policy shifts that impact the eligibility criteria for important nonimmigrant visas available to Canadians and Mexicans. This order directs that the U.S. trade policies promote “investment and productivity, enhances our Nation’s industrial and technological advantages, defends our economic and national security, and — above all — benefits American workers, manufacturers, farmers, ranchers, entrepreneurs, and businesses” It requires the review of all existing trade agreements and the impact of the U.S.-Mexico- Canada Agreement (USMCA) on American workers, farmers, ranchers, service providers, and other businesses.

Analysis:

- The directive to review the USMCA before the 2026 renewal may result in policy shifts affecting the eligibility criteria for TN visas. If the U.S. Trade Representative recommends changes to the agreement, visa issuance procedures may be altered, leading to a stricter interpretation of job categories and qualifications. Canadian and Mexican professionals applying for TN visas may face additional documentation requirements to prove their qualifications and the necessity of their employment in the United States.
- The review of other trade agreements may impact other treaty-based nonimmigrant visa categories, such E-1 (treaty trader), E-2 (treaty investor), and H-1B1 (specialty occupation worker).

Sections directing the investigation of unfair trade practices and tariff policies may create uncertainty for businesses employing foreign professionals under B-1 (business visitor) or L-1 (intra-company transferee) visas, resulting in fewer job opportunities for noncitizens.

Executive Order America First Policy Directive to the Secretary of State

This order, framed as directing foreign policy to “champion core American interests and always put America and American citizens first,” has the potential to harm our economic growth and prosperity. It is effective immediately.

Analysis:

- Although not explicit, this directive may be a reinstatement of the first Trump administration’s Buy American, Hire American (BAHA) Executive Order 13788.² The BAHA policies resulted in increased scrutiny of employment-based visas, barriers for U.S. businesses to hire foreign workers, and a focus on increased wage requirements which hurt small businesses, non-profits, and foreign graduates of U.S. institutions. As acknowledged by President Trump, with increased tariffs, legal immigration to bring businesses and critical workers to the United States will be key to America’s economic success. If the America First policy resurrects the BAHA policy, this will harm our economic growth and prosperity.

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² <https://www.federalregister.gov/documents/2017/04/21/2017-08311/buy-american-and-hire-american>